



NEW YORK STATE SENATOR

Terrence Murphy

## **Small Biz Reg Watch vol 1, Issue 6**

Terrence P. Murphy

June 1, 2015

Dear Neighbor,

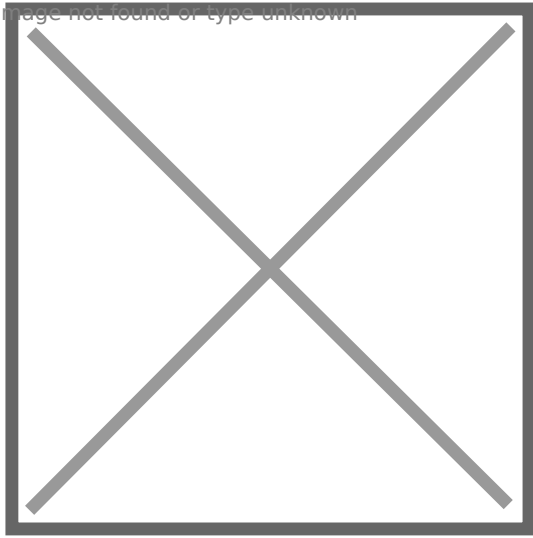
Below are this week's featured regulations. Remember, you can always check out the [ARRC website](#) for a more comprehensive list of rules and regulations from both the federal and state government.

As a small business owner, I know firsthand how the miles of red tape can strangle the life out of any business. The goal of the small business regulatory watch is to make our state and federal government more transparent and business friendly. I encourage you to speak out against any of the proposed rules and regulations you see that may adversely impact your individual business or field.

If I or my staff can ever be of help please do not hesitate to contact us.

Wishing you the best,

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Dr. Terrence P. Murphy

This Week's Featured Regulations

**New York State Register, Issue 17, April 29, 2015:**

- Licensure of Physician Assistants and Registration of Specialist Assistants (Department of Education) (EDU-17-15-0002-P)
  - The rule will conform Commissioner's Regulations to Chapter 48 of 2012 and remove obsolete provisions relating to physician assistants.
  - Public comments will be accepted for 45 days, or up to June 13, 2015.
  - Comments may be sent to Office of the Professions, Office of the Deputy Commissioner, State Education Department, State Education Building 2M, 89 Washington Ave, Albany, NY 12234. [\(518\) 486-1765](tel:5184861765), [opdepcom@nysed.gov](mailto:opdepcom@nysed.gov).

**New York State Register, Issue 18, May 6, 2015:**

- Title Insurance Agents, Affiliated Relationships, and Title Insurance Business (Department of Financial Services) (DFS-29-14-00014-E)

- The Department of Financial Services (DFS) has proposed an emergency rule to regulate title insurance agents pursuant to Chapter 57 of the New York Laws of 2014. Chapter 57 took effect on Sept. 27, 2014 and it requires title insurance agents to be licensed.
  - DFS first proposed this regulation on July 23, 2014; this is the fourth emergency rule that DFS has introduced since that time. DFS asserts that an emergency rule is necessary for the preservation of general welfare in NYS. Also claimed by DFS, is the intent to adopt this regulation as a “permanent rule.” Currently, the emergency rule is set to expire on June 18, 2015.
  - Title insurance corporations, title insurance agents and brokers, those that have “affiliated business relationships” with title insurers and title closers will be effected by this regulation.
  - Many components of this rule involve amending existing State Insurance regulations, so that most requirements for “insurance producers” are applied to title insurance agents. Issues such as, premium accounts, fiduciary responsibilities, “prohibitions regarding sharing compensation with other licensees,” and an amendment “to address a limited exception for title insurance business insuring State of New York Mortgage Agency” are included in this regulation.
  - New requirements for agents with multiple offices and rules for licensed attorneys that work as title insurance agents, are also included.
  - DFS Regulation 206 was created to address miscellaneous issues, including disclosure requirements, compliance with “annual statistical data call(s)” from rate service organizations, and insurer/agent obligations regarding title closers.
  - Regulation 206 codifies DFS “opinions regarding affiliated business relations with respect to the applicability of State Insurance Law, Section 6409,” and it prohibits “rebates, inducements, and certain other discriminatory behaviors.”
  - Because this rule has been introduced as an emergency, DFS is not seeking public comments. For the text of the entire rule, contact Paul Zuckerman, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 480-5826, [paul.zuckerman@dfs.ny.gov](mailto:paul.zuckerman@dfs.ny.gov). Additional information may be obtained at <http://www.dfs.ny.gov/>.
- **Title Insurance Rates, Expenses and Charges (Department of Financial Services) (DFS-18-15-00009-P)**

- The Department of Financial Services (DFS) has proposed a regulation to “insure proper, non-excessive rates” and compliance with State Insurance Law, Section 6409(d). It will affect numerous title insurance corporations, title insurance agents, title closers and rate service organizations (RSOs).
- This rule is an attempt to prevent the use of “inducements,” prohibited expenditures made by title insurance corporations and agents to “current or prospective customers.”
- Insurance Law, Section 6409(d) prohibits “any rebate” of the “fee, premium or charge made,” or any payment/gift of “consideration or valuable thing, as an inducement for” any “title insurance business.”
- DFS claims that despite the law, the use of inducements has been prevalent throughout the title insurance industry in NYS.
- Inducements have made it difficult for those insurers and agents that cannot, or that do not pay inducements, to compete in the industry.
- Unlawful inducements are commonly reported as expenses to RSOs and/or statistical agent(s) and this practice has contributed to higher title insurance rates for consumers.
- Banned inducements include meals and beverages, entertainment, cash and gift cards, parties, continuing legal education credits at reduced fees, sponsorships, charitable and political contributions, and many other payments of value.
- Expense schedules reported in response to annual data calls, that include prohibited expenses made during the last ten years, must be restated and re-submitted. Such adjustments must be completed within 60 days of the effect date for this rule.
- Maximum charges for ancillary closing costs, including “Patriot,” bankruptcy, and municipal searches are included in this regulation.
- Gratuities or tips and “pick up fees” paid to title closers are prohibited under this rule.
- RSOs and all title insurance corporations that submit their own rate filings, must make a filing at least once every three years, to verify that their rates “are not excessive, inadequate or discriminatory.”
- Several other requirements are included in this proposed regulation. Full text of this proposal can be found at [http://dfs.ny.gov/insurance/r\\_prop/rp208t.pdf](http://dfs.ny.gov/insurance/r_prop/rp208t.pdf).

- Public comments will be accepted for 45 days, or up to June 20, 2015.
- For further information, or to submit a public comment, contact Ellen R. Buxbaum, Department of Financial Services, One State Street, New York, NY 1004, [212-480-5383](tel:212-480-5383), [TitleNsReg@dfs.ny.gov](mailto:TitleNsReg@dfs.ny.gov).

**New York State Register, Issue 19, May 13, 2015:**

- Empire State Musical and Theatrical Production Tax Credit Program (Department of Economic Development (EDV-19-15-00002-E)
  - The rule will establish application procedures for the Empire State Musical and Theatrical Production Tax Credit. The program is designed to aid musical and theatrical production companies with facilities located in Upstate New York.
  - Further information regarding the program can be obtained from Thomas Regan, New York State Department of Economic Development, 625 Broadway, 8th Floor, Albany, NY 12207. [\(518\) 292- 5123](tel:518-292-5123), [Thomas.Regan@esd.ny.gov](mailto:Thomas.Regan@esd.ny.gov).